REMARKS/ARGUMENTS

Applicants thank the Office for the Office Action mailed November 10, 2008. The status of the claims is as follows.

Claims 1-39 are pending, and claims 1, 5, 7, 8, 15, 23, 26, 29, 32 and 35 have been amended herein;

Claim 26 is objected to for informalities;

Claims 1, 3-4, 6-14 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. (US 2005/0137973) in view of Hensley (US 2004/0133790).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view Hensley, and in further view of Dresden (US 2005/0021440).

Claims 5 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view Hensley, and in further view of Abrams et al. (US 2002/0166117).

Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Proudler et al. (US 7,302,698), and further in view of PR Newswire.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley et al in further view of Proudler et al.

Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley et al. in further view of Proudler et al. in further view of Abrams et al.

Claims 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al.

Claims 33-34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al. in further view of Hensley.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al. in further view of Hensley in further view of Abrams et al.

The objection and rejections are discussed below.

Claim Amendments

Claims 1, 5, 7, 8, 15, 23, 26 and 35 have been amended for informalities and not for reasons of patentability.

The Objection to Claim 26

Claim 26 stands objected to for informalities. This objection should be withdrawn because claim 26 has been amended as suggested by the Office, rendering the objection thereto moot.

The Rejection of Claims 1, 3-4, 6-14 and 38-39 under 35 U.S.C. 103(a)

Claims 1, 3-4, 6-14 and 38-39 stand rejected under 35 U.S.C. 103(a) as being anticipated by Hoffman et al. in view of Hensley. This rejection should be withdrawn because the combination of Hoffman et al. and Hensley does not teach or suggest all the limitations of the subject claims and, therefore, fails to establish a *prima facie* case of obviousness with respect to the subject claims.

> The rationale to support a conclusion that the claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed. *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___ (2007). MPEP §2143.

Amended independent **claim 1** requires, *inter alia*, ***detecting if at least one system problem exists in the computer system that is addressable by at least one chargeable technology***; executing in the computer system the at least one chargeable technology ***for each occurrence of the at least one system problem***; and ***charging on a per usage basis for each execution of the at least one chargeable technology by the computer system***. The combination of Hoffman et al. and Hensley does not teach or suggest the emphasized claim aspects.

The Office cites to ¶¶ [0013]-[0014] of Hoffman et al. as teaching tracking the execution by the computer system of at least one chargeable technology. However, the cited sections of Hoffman et al. are silent regarding detecting if at least one system problem exists in the computer system that is addressable by at least one chargeable

technology and executing in the computer system the at least one chargeable technology for each occurrence of the at least one system problem as required by amended claim 1. Instead, the cited sections of Hoffman et al. teach monitoring the usage of processor performance in a first or multiple partitions of a computer system for the purposes of billing for the computer usage according to processor utilization and relative value of tasks executed. Accordingly, the rejection of claim 1 should be withdrawn.

Amended independent **claim 8** recites aspects similar to those recited in claim 1 regarding detecting if at least one system problem exists in the computer system that is addressable by at least one chargeable technology and executing in the computer system the at least one chargeable technology for each occurrence of the at least one system problem. As such, the above-discussion regarding claim 1 applies *mutatis mutandis* to claim 8, and this rejection should be withdrawn.

Claims 3-4, 6-7, 9-14 and 38-39 directly or indirectly depend from claims 1 or 8, and are allowable at least by virtue of their dependencies.

The Rejection of Claim 2 under 35 U.S.C. 103(a)

Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Dresden. **Claim 2** depends from claim 1 and is allowable at least by virtue of this dependency.

The Rejection of Claims 5 and 29-31 under 35 U.S.C. 103(a)

Claims 5 and 29-31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Abrams et al. **Claim 29** has been amended and recites aspects similar to those recited in claim 1 regarding detecting if at least one system problem exists in the computer system that is addressable by at least one chargeable technology and executing in the computer system the at least one chargeable technology for each occurrence of the at least one system problem. As such, the above-discussion regarding claim 1 applies *mutatis mutandis* to claim 29, and this rejection should be withdrawn. **Claims 5 and 30-31** depend from claims 1 or 29 and are allowable at least by virtue of their dependencies.

The Rejection of Claims 15-22 under 35 U.S.C. 103(a)

Claims 15-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Proudler et al., in further view of PR Newswire. This rejection should be withdrawn for the following reasons. Independent **claim 15** has been amended and now requires, *inter alia*, recognizing in a primary operating mode of a computer system at least one event indicating a need for execution by the computer system of at least one chargeable technology, and ***the at least one chargeable technology is charged for on a per usage basis for each execution of the at least one chargeable technology***. The combination of Hoffman et al., Hensley, Proudler and PR Newswire do not teach or suggest the emphasized claim aspects.

The Office cites to p. 1 of PR Newswire as teaching that some anti-virus software is a chargeable technology. The Office cites as an example Section A of PR Newswire which discusses the McAfee anti-virus software as being offered on a monthly subscription basis. However, PR Newswire does not teach or suggest the chargeable technology is charged for **on a per-usage basis** for each occurrence of the at least one event indicating a need for execution of the chargeable technology as required by amended claim 15. Accordingly, this rejection should be withdrawn.

Claims 16-22 depend from claim 15 and are allowable at least be virtue of their dependencies.

The Rejection of Claims 23-25 under 35 U.S.C. 103(a)

Claims 23-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley et al. in further view of Proudler et al. Independent **claim 23** has been amended to recite claim aspects similar to those recited in claim 15 regarding the at least one chargeable technology is charged for on a per usage basis for each occurrence of the at least one event indicating a need for execution of the chargeable technology. As such, the above-discussion regarding claim 15 applies *mutatis mutandis* to claim 23, and this rejection should be withdrawn.

Claims 24-25 depend from claim 23, and are allowable at least by virtue of their dependencies.

The Rejection of Claims 26-28 under 35 U.S.C. 103(a)

Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Hensley in further view of Proudler et al. in further view of Abrams et al. **Claims 26-28** depend from claim 23, and are allowable at least by virtue of their dependencies.

The Rejection of Claims 32 and 35 under 35 U.S.C. 103(a)

Claims 32 and 35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al. Independent claims 32 and 35 have been amended to recite claim aspects similar to those recited in claim 15 regarding the at least one chargeable technology is charged for on a per usage basis for each occurrence of the at least one event indicating a need for execution of the chargeable technology. As such, the above-discussion regarding claim 15 applies *mutatis mutandis* to claims 32 and 35, and this rejection should be withdrawn.

The Rejection of Claims 33-34 and 36 under 35 U.S.C. 103(a)

Claims 33-34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler et al. in further view of Hensley. **Claims 33-34** depend from independent claim 32 and **claim 36** depends from independent claim 35, and are allowable at least by virtue of their dependencies.

The Rejection of Claim 37 under 35 U.S.C. 103(a)

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Proudler in further view of Hensley in further view of Abrams et al. **Claim 37** indirectly depends from claim 35 and is allowable at least by virtue of this dependency.

Conclusion

In view of the foregoing, it is submitted that the subject claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,

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